

**COLLECTION, REMITTANCE, AND
RETENTION OF CERTAIN TAXES, FEES,
OR CHARGES**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Municipal Energy Sales and Use Tax Act, the Sales and Use Tax Act, and related provisions to address the collection and remittance of certain taxes, fees, or charges and the authority for a seller to retain certain sales and use tax amounts.

Highlighted Provisions:

This bill:

- ▶ addresses the frequency with which a seller is required to remit certain taxes, fees, or charges to the State Tax Commission;
- ▶ addresses procedures and requirements for the collection and remittance of a tax, fee, or charge;
- ▶ repeals the authority for a seller to retain certain sales and use tax amounts;
- ▶ repeals obsolete language; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:



28 AMENDS:

- 29 **10-1-307**, as last amended by Laws of Utah 2009, Chapter 212
- 30 **59-1-401**, as last amended by Laws of Utah 2009, Chapters 31, 203, 212, and 336
- 31 **59-12-103.1**, as last amended by Laws of Utah 2006, Chapter 253
- 32 **59-12-107**, as last amended by Laws of Utah 2009, Chapter 212
- 33 **59-12-107.1**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 34 **59-12-108**, as last amended by Laws of Utah 2008, Chapters 286, 382, and 384
- 35 **59-12-123**, as enacted by Laws of Utah 2008, Chapter 384
- 36 **59-12-1802**, as last amended by Laws of Utah 2008, Chapter 384
- 37 **59-12-2003**, as last amended by Laws of Utah 2009, Chapter 385
- 38 **59-27-104**, as last amended by Laws of Utah 2008, Chapter 382
- 39 **63M-5-303**, as renumbered and amended by Laws of Utah 2008, Chapter 382

40

41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **10-1-307** is amended to read:

43 **10-1-307. Administration, collection, and enforcement of taxes by commission --**
44 **Distribution of revenues -- Charge for services -- Collection of taxes by municipality.**

45 (1) Except as provided in Subsection (3), the commission shall administer, collect, and
46 enforce the municipal energy sales and use tax from energy suppliers according to the
47 procedures established in:

48 (a) Title 59, Chapter 1, General Taxation Policies; and

49 (b) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and
50 59-12-123.

51 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
52 10-1-310(2) [~~and subject to Subsection (6);~~] the commission shall pay a municipality the
53 difference between:

54 (i) the entire amount collected by the commission from the municipal energy sales and
55 use tax authorized by this part based on:

56 (A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that
57 imposes a municipal energy sales and use tax as provided in this part; or

58 (B) the point of use of the taxable energy if the use occurs in a municipality that

59 imposes a municipal energy sales and use tax as provided in this part; and

60 (ii) the administration fee charged in accordance with Subsection (2)(c).

61 (b) In accordance with Subsection (2)(a), the commission shall transfer to the
62 municipality monthly by electronic transfer the revenues generated by the municipal energy
63 sales and use tax levied by the municipality and collected by the commission.

64 (c) (i) The commission shall charge a municipality imposing a municipal energy sales
65 and use tax a fee for administering the tax at the percentage provided in Section 59-12-206,
66 except that the commission may not charge a fee for taxes collected by a municipality under
67 Subsection (3).

68 (ii) The fee charged under Subsection (2)(c)(i) shall be:

69 (A) deposited in the Sales and Use Tax Administrative Fees Account; and

70 (B) used for sales tax administration as provided in Subsection 59-12-206(2).

71 (3) An energy supplier shall pay the municipal energy sales and use tax revenues it
72 collects from its customers under this part directly to each municipality in which the energy
73 supplier has sales of taxable energy if:

74 (a) the municipality is the energy supplier; or

75 (b) (i) the energy supplier estimates that the municipal energy sales and use tax
76 collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more;
77 and

78 (ii) the energy supplier collects the tax imposed by this part.

79 [~~(4) An energy supplier paying a tax under this part directly to a municipality may
80 retain the percentage of the tax authorized under Subsection 59-12-108(2) for the energy
81 supplier's costs of collecting and remitting the tax.~~]

82 [(5)] (4) An energy supplier paying the tax under this part directly to a municipality
83 shall file an information return with the commission, at least annually, on a form prescribed by
84 the commission.

85 [~~(6) (a) As used in this Subsection (6):~~]

86 [(i) "~~2005 base amount~~" means, for a municipality that imposes a municipal energy
87 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to
88 the municipality for fiscal year 2005.]

89 [(ii) "~~2006 base amount~~" means, for a municipality that imposes a municipal energy

90 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to
91 the municipality for fiscal year 2006, reduced by the 2006 rebate amount.]

92 [(iii) "2006 rebate amount" means, for a municipality that imposes a municipal energy
93 sales and use tax, the difference between:]

94 [(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the
95 municipality for fiscal year 2006; and]

96 [(B) the 2005 base amount, plus:]

97 [(F) 10% of the 2005 base amount; and]

98 [(H) the natural gas portion of municipal energy sales and use tax proceeds paid to the
99 municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy
100 sales and use tax implemented by the municipality during fiscal year 2006.]

101 [(iv) "2007 rebate amount" means, for a municipality that imposes a municipal energy
102 sales and use tax, the difference between:]

103 [(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the
104 municipality for fiscal year 2007; and]

105 [(B) the 2006 base amount, plus:]

106 [(F) 10% of the 2006 base amount; and]

107 [(H) the natural gas portion of municipal energy sales and use tax proceeds paid to the
108 municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy
109 sales and use tax implemented by the municipality during fiscal year 2007.]

110 [(v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30,
111 2005.]

112 [(vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30,
113 2006.]

114 [(vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30,
115 2007.]

116 [(viii) "Gas supplier" means an energy supplier that supplies natural gas.]

117 [(ix) "Natural gas portion" means the amount of municipal energy sales and use tax
118 proceeds attributable to sales and uses of natural gas.]

119 [(b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of
120 municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate

121 amount.]

122 ~~[(ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of~~
123 ~~municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce~~
124 ~~the natural gas portion of municipal energy sales and use tax proceeds to be paid to a~~
125 ~~municipality each month thereafter until the 2006 rebate amount is exhausted.]~~

126 ~~[(iii) For December 2006 and for each month thereafter that the gas supplier is required~~
127 ~~under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use~~
128 ~~tax proceeds to be paid to a municipality:]~~

129 ~~[(A) each municipality imposing a municipal energy sales and use tax shall provide the~~
130 ~~gas supplier with the amount by which its municipal energy sales and use tax rate applicable to~~
131 ~~the sales and uses of natural gas would need to be reduced in order to reduce the natural gas~~
132 ~~portion of municipal energy sales and use tax proceeds by the same amount as the reduction to~~
133 ~~the municipality; and]~~

134 ~~[(B) each gas supplier shall reduce the municipal energy sales and use tax rate~~
135 ~~applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by~~
136 ~~the municipality:]~~

137 ~~[(c) (i) In December 2007, each gas supplier shall reduce the natural gas portion of~~
138 ~~municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate~~
139 ~~amount:]~~

140 ~~[(ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of~~
141 ~~municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce~~
142 ~~the natural gas portion of municipal energy sales and use tax proceeds to be paid to a~~
143 ~~municipality each month thereafter until the 2007 rebate amount is exhausted:]~~

144 ~~[(iii) For December 2007 and for each month thereafter that the gas supplier is required~~
145 ~~under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use~~
146 ~~tax proceeds to be paid to a municipality:]~~

147 ~~[(A) each municipality imposing a municipal energy sales and use tax shall provide the~~
148 ~~gas supplier with the amount by which its municipal energy sales and use tax rate applicable to~~
149 ~~the sales and uses of natural gas would need to be reduced in order to reduce the natural gas~~
150 ~~portion of municipal energy sales and use tax proceeds by the same amount as the reduction to~~
151 ~~the municipality; and]~~

152 ~~[(B) each gas supplier shall reduce the municipal energy sales and use tax rate~~
153 ~~applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by~~
154 ~~the municipality.]~~

155 ~~[(d) Nothing in this Subsection (6) may be construed to require a reduction under~~
156 ~~Subsection (6)(b) or (c) if the rebate amount is zero or negative.]~~

157 Section 2. Section **59-1-401** is amended to read:

158 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
159 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
160 **interest.**

161 (1) As used in this section:

162 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the
163 commission:

164 (i) has implemented the commission's GenTax system; and

165 (ii) at least 30 days before implementing the commission's GenTax system as described
166 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website
167 stating:

168 (A) the date the commission will implement the GenTax system with respect to the tax,
169 fee, or charge; and

170 (B) that, at the time the commission implements the GenTax system with respect to the
171 tax, fee, or charge:

172 (I) a person that files a return after the due date as described in Subsection (2)~~(b)~~(a) is
173 subject to the penalty described in Subsection (2)(c)(ii); and

174 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is
175 subject to the penalty described in Subsection (3)(b)(ii).

176 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or
177 charge, the later of:

178 (i) the date on which the commission implements the commission's GenTax system
179 with respect to the tax, fee, or charge; or

180 (ii) 30 days after the date the commission provides the notice described in Subsection
181 (1)(a)(ii) with respect to the tax, fee, or charge.

182 (c) "Tax, fee, or charge" means:

- 183 (i) a tax, fee, or charge the commission administers under:
- 184 (A) this title;
- 185 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 186 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 187 (D) Section 19-6-410.5;
- 188 (E) Section 19-6-714;
- 189 (F) Section 19-6-805;
- 190 (G) Section 40-6-14;
- 191 (H) Section 69-2-5;
- 192 (I) Section 69-2-5.5; or
- 193 (J) Section 69-2-5.6; or
- 194 (ii) another amount that by statute is subject to a penalty imposed under this section.
- 195 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 196 tax, fee, or charge.
- 197 (2) (a) The due date for filing a return is:
- 198 (i) if the person filing the return is not allowed by law an extension of time for filing
- 199 the return, the day on which the return is due as provided by law; or
- 200 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 201 return, the earlier of:
- 202 (A) the date the person files the return; or
- 203 (B) the last day of that extension of time as allowed by law.
- 204 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 205 return after the due date described in Subsection (2)(a).
- 206 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 207 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 208 tax, fee, or charge:
- 209 (A) \$20; or
- 210 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 211 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 212 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 213 (A) \$20; or

214 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
215 filed no later than five days after the due date described in Subsection (2)(a);

216 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
217 more than five days after the due date but no later than 15 days after the due date described in
218 Subsection (2)(a); or

219 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
220 filed more than 15 days after the due date described in Subsection (2)(a).

221 (d) This Subsection (2) does not apply to:

222 (i) an amended return; or

223 (ii) a return with no tax due.

224 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

225 (i) the person files a return on or before the due date for filing a return described in
226 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
227 date;

228 (ii) the person:

229 (A) is subject to a penalty under Subsection (2)(b); and

230 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
231 due date for filing a return described in Subsection (2)(a);

232 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

233 (B) the commission estimates an amount of tax due for that person in accordance with
234 Subsection 59-1-1406(2);

235 (iv) the person:

236 (A) is mailed a notice of deficiency; and

237 (B) within a 30-day period after the day on which the notice of deficiency described in
238 Subsection (3)(a)(iv)(A) is mailed:

239 (I) does not file a petition for redetermination or a request for agency action; and

240 (II) fails to pay the tax, fee, or charge due on a return;

241 (v) (A) the commission:

242 (I) issues an order constituting final agency action resulting from a timely filed petition
243 for redetermination or a timely filed request for agency action; or

244 (II) is considered to have denied a request for reconsideration under Subsection

245 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
246 request for agency action; and

247 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
248 after the date the commission:

249 (I) issues the order constituting final agency action described in Subsection
250 (3)(a)(v)(A)(I); or

251 (II) is considered to have denied the request for reconsideration described in
252 Subsection (3)(a)(v)(A)(II); or

253 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
254 of a final judicial decision resulting from a timely filed petition for judicial review.

255 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

256 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
257 respect to an unactivated tax, fee, or charge:

258 (A) \$20; or

259 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

260 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
261 respect to an activated tax, fee, or charge, beginning on the activation date:

262 (A) \$20; or

263 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
264 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
265 return described in Subsection (2)(a);

266 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
267 fee, or charge due on the return is paid more than five days after the due date for filing a return
268 described in Subsection (2)(a) but no later than 15 days after that due date; or

269 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
270 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
271 return described in Subsection (2)(a).

272 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
273 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
274 shall be added a penalty in an amount determined by applying the interest rate provided under
275 [~~Section~~] Subsection 59-1-402(2) plus four percentage points to the amount of the

276 underpayment for the period of the underpayment.

277 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
278 excess of the required installment over the amount, if any, of the installment paid on or before
279 the due date for the installment.

280 (ii) The period of the underpayment shall run from the due date for the installment to
281 whichever of the following dates is the earlier:

282 (A) the original due date of the tax return, without extensions, for the taxable year; or

283 (B) with respect to any portion of the underpayment, the date on which that portion is
284 paid.

285 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited
286 against unpaid required installments in the order in which the installments are required to be
287 paid.

288 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
289 person allowed by law an extension of time for filing a corporate franchise or income tax return
290 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
291 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in
292 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
293 including the extension of time, the person fails to pay:

294 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
295 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

296 (ii) for a person filing an individual income tax return under Chapter 10, Individual
297 Income Tax Act, the payment required by Subsection 59-10-516(2).

298 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
299 extension of time for filing the return is an amount equal to 2% of the tax due on the return,
300 unpaid as of the day on which the return is due as provided by law.

301 (6) If a person does not file a return within an extension of time allowed by Section
302 59-7-505 or 59-10-516, the person:

303 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

304 (b) is subject to a penalty in an amount equal to the sum of:

305 (i) a late file penalty in an amount equal to the greater of:

306 (A) \$20; or

307 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as
308 provided by law, not including the extension of time; and

309 (ii) a late pay penalty in an amount equal to the greater of:

310 (A) \$20; or

311 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
312 due as provided by law, not including the extension of time.

313 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided
314 in this Subsection (7)(a).

315 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,
316 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that
317 is due to negligence.

318 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a
319 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire
320 underpayment.

321 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,
322 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

323 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or
324 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

325 (b) If the commission determines that a person is liable for a penalty imposed under
326 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed
327 penalty.

328 (i) The notice of proposed penalty shall:

329 (A) set forth the basis of the assessment; and

330 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

331 (ii) Upon receipt of the notice of proposed penalty, the person against whom the
332 penalty is proposed may:

333 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

334 or

335 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

336 (iii) A person against whom a penalty is proposed in accordance with this Subsection

337 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with

338 the commission.

339 (iv) (A) If the commission determines that a person is liable for a penalty under this
340 Subsection (7), the commission shall assess the penalty and give notice and demand for
341 payment.

342 (B) The commission shall mail the notice and demand for payment described in
343 Subsection (7)(b)(iv)(A):

344 (I) to the person's last-known address; and

345 (II) in accordance with Section 59-1-1404.

346 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
347 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

348 (i) a court of competent jurisdiction issues a final unappealable judgment or order
349 determining that:

350 (A) the seller meets one or more of the criteria described in Subsection
351 59-12-107(1)(a); and

352 (B) the commission or a county, city, or town may require the seller to collect a tax
353 under Subsections 59-12-103(2)(a) through (d); or

354 (ii) the commission issues a final unappealable administrative order determining that:

355 (A) the seller meets one or more of the criteria described in Subsection
356 59-12-107(1)(a); and

357 (B) the commission or a county, city, or town may require the seller to collect a tax
358 under Subsections 59-12-103(2)(a) through (d).

359 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
360 subject to the penalty under Subsection (7)(a)(ii) if:

361 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
362 determining that:

363 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
364 and

365 (II) the commission or a county, city, or town may require the seller to collect a tax
366 under Subsections 59-12-103(2)(a) through (d); or

367 (B) the commission issues a final unappealable administrative order determining that:

368 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);

369 and

370 (II) the commission or a county, city, or town may require the seller to collect a tax
371 under Subsections 59-12-103(2)(a) through (d); and

372 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a
373 nonfrivolous argument for the extension, modification, or reversal of existing law or the
374 establishment of new law.

375 (8) The penalty for failure to file an information return, information report, or a
376 complete supporting schedule is \$50 for each information return, information report, or
377 supporting schedule up to a maximum of \$1,000.

378 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay
379 or impede administration of a law relating to a tax, fee, or charge and files a purported return
380 that fails to contain information from which the correctness of reported tax, fee, or charge
381 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is
382 substantially incorrect, the penalty is \$500.

383 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by
384 ~~[Subsection] Section 59-12-108(1)(a)-(i)~~ is subject to a penalty described in Subsection (2)~~;~~
385 ~~and~~.

386 ~~[(ii) may not retain the percentage of sales and use taxes that would otherwise be
387 allowable under Subsection 59-12-108(2).]~~

388 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as
389 required by ~~[Subsection] Section 59-12-108(1)(a)(ii)(B)-(i)~~ is subject to a penalty described
390 in Subsection (2)~~;~~~~and~~.

391 ~~[(ii) may not retain the percentage of sales and use taxes that would otherwise be
392 allowable under Subsection 59-12-108(2).]~~

393 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

394 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
395 following documents:

396 (A) a return;

397 (B) an affidavit;

398 (C) a claim; or

399 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

400 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
401 will be used in connection with any material matter administered by the commission; and

402 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
403 with any material matter administered by the commission, would result in an understatement of
404 another person's liability for a tax, fee, or charge.

405 (b) The following acts apply to Subsection (11)(a)(i):

406 (i) preparing any portion of a document described in Subsection (11)(a)(i);

407 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

408 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

409 (iv) advising in the preparation or presentation of any portion of a document described
410 in Subsection (11)(a)(i);

411 (v) aiding in the preparation or presentation of any portion of a document described in
412 Subsection (11)(a)(i);

413 (vi) assisting in the preparation or presentation of any portion of a document described
414 in Subsection (11)(a)(i); or

415 (vii) counseling in the preparation or presentation of any portion of a document
416 described in Subsection (11)(a)(i).

417 (c) For purposes of Subsection (11)(a), the penalty:

418 (i) shall be imposed by the commission;

419 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
420 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

421 (iii) is in addition to any other penalty provided by law.

422 (d) The commission may seek a court order to enjoin a person from engaging in
423 conduct that is subject to a penalty under this Subsection (11).

424 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
425 commission may make rules prescribing the documents that are similar to Subsections
426 (11)(a)(i)(A) through (C).

427 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
428 provided in Subsections (12)(b) through (e).

429 (b) (i) A person who is required by this title or any laws the commission administers or
430 regulates to register with or obtain a license or permit from the commission, who operates

431 without having registered or secured a license or permit, or who operates when the registration,
432 license, or permit is expired or not current, is guilty of a class B misdemeanor.

433 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
434 penalty may not:

435 (A) be less than \$500; or

436 (B) exceed \$1,000.

437 (c) (i) A person who, with intent to evade a tax, fee, or charge or requirement of this
438 title or any lawful requirement of the commission, fails to make, render, sign, or verify a return
439 or to supply information within the time required by law, or who makes, renders, signs, or
440 verifies a false or fraudulent return or statement, or who supplies false or fraudulent
441 information, is guilty of a third degree felony.

442 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the
443 penalty may not:

444 (A) be less than \$1,000; or

445 (B) exceed \$5,000.

446 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or
447 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,
448 guilty of a second degree felony.

449 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the
450 penalty may not:

451 (A) be less than \$1,500; or

452 (B) exceed \$25,000.

453 (e) (i) A person is guilty of a second degree felony if that person commits an act:

454 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
455 documents:

456 (I) a return;

457 (II) an affidavit;

458 (III) a claim; or

459 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

460 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
461 Subsection (12)(e)(i)(A):

- 462 (I) is false or fraudulent as to any material matter; and
- 463 (II) could be used in connection with any material matter administered by the
- 464 commission.
- 465 (ii) The following acts apply to Subsection (12)(e)(i):
- 466 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 467 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 468 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 469 (D) advising in the preparation or presentation of any portion of a document described
- 470 in Subsection (12)(e)(i)(A);
- 471 (E) aiding in the preparation or presentation of any portion of a document described in
- 472 Subsection (12)(e)(i)(A);
- 473 (F) assisting in the preparation or presentation of any portion of a document described
- 474 in Subsection (12)(e)(i)(A); or
- 475 (G) counseling in the preparation or presentation of any portion of a document
- 476 described in Subsection (12)(e)(i)(A).
- 477 (iii) This Subsection (12)(e) applies:
- 478 (A) regardless of whether the person for which the document described in Subsection
- 479 (12)(e)(i)(A) is prepared or presented:
- 480 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 481 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 482 (B) in addition to any other penalty provided by law.
- 483 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
- 484 penalty may not:
- 485 (A) be less than \$1,500; or
- 486 (B) exceed \$25,000.
- 487 (v) The commission may seek a court order to enjoin a person from engaging in
- 488 conduct that is subject to a penalty under this Subsection (12)(e).
- 489 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 490 the commission may make rules prescribing the documents that are similar to Subsections
- 491 (12)(e)(i)(A)(I) through (III).
- 492 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is

493 the later of six years:

- 494 (i) from the date the tax should have been remitted; or
- 495 (ii) after the day on which the person commits the criminal offense.

496 (13) Upon making a record of its actions, and upon reasonable cause shown, the
497 commission may waive, reduce, or compromise any of the penalties or interest imposed under
498 this part.

499 Section 3. Section **59-12-103.1** is amended to read:

500 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
501 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
502 **Collection of tax by commission -- Commission report to Utah Tax Review Commission --**
503 **Utah Tax Review Commission study.**

504 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
505 commission as provided in ~~[Section]~~ Sections 59-12-107 and 59-12-108 if:

506 (a) the Supreme Court of the United States issues a decision authorizing a state to
507 require a seller that does not meet one or more of the criteria described in Subsection
508 59-12-107(1)(a) to collect a sales or use tax; or

509 (b) Congress permits the state to require a seller that does not meet one or more of the
510 criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax.

511 (2) The commission shall:

512 (a) collect the tax described in Subsection (1) from the seller:

513 (i) to the extent:

514 (A) authorized by the Supreme Court of the United States; or

515 (B) permitted by Congress; and

516 (ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax
517 Review Commission; and

518 (b) make a report to the Utah Tax Review Commission:

519 (i) regarding the actions taken by:

520 (A) the Supreme Court of the United States; or

521 (B) Congress; and

522 (ii) at the Utah Tax Review Commission meeting immediately following the day on
523 which the Supreme Court of the United States' or Congress' actions become effective.

524 (3) The Utah Tax Review Commission shall after hearing the commission's report
525 under Subsection (2)(b):

526 (a) review the actions taken by:

527 (i) the Supreme Court of the United States; or

528 (ii) Congress;

529 (b) direct the commission regarding the day on which the commission is required to
530 collect the tax described in Subsection (1); and

531 (c) make recommendations to the Revenue and Taxation Interim Committee:

532 (i) regarding whether as a result of the Supreme Court of the United States' or
533 Congress' actions any provisions of this chapter should be amended or repealed; and

534 (ii) within a one-year period after the day on which the commission makes a report
535 under Subsection (2)(b).

536 Section 4. Section **59-12-107** is amended to read:

537 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
538 **-- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for**
539 **collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**

540 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 or 59-12-123
541 and subject to Subsection (1)(e), each seller shall pay or collect and remit the sales and use
542 taxes imposed by this chapter if within this state the seller:

543 (i) has or utilizes:

544 (A) an office;

545 (B) a distribution house;

546 (C) a sales house;

547 (D) a warehouse;

548 (E) a service enterprise; or

549 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

550 (ii) maintains a stock of goods;

551 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
552 state, unless the seller's only activity in the state is:

553 (A) advertising; or

554 (B) solicitation by:

- 555 (I) direct mail;
- 556 (II) electronic mail;
- 557 (III) the Internet;
- 558 (IV) telecommunications service; or
- 559 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);
- 560 (iv) regularly engages in the delivery of property in the state other than by:
- 561 (A) common carrier; or
- 562 (B) United States mail; or
- 563 (v) regularly engages in an activity directly related to the leasing or servicing of
- 564 property located within the state.
- 565 (b) A seller that does not meet one or more of the criteria provided for in Subsection
- 566 (1)(a):
- 567 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 568 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
- 569 (B) remit the tax to the commission as provided in this part; or
- 570 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
- 571 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- 572 (c) The collection and remittance of a tax under this chapter by a seller that is
- 573 registered under the agreement may not be used as a factor in determining whether that seller is
- 574 required by Subsection (1)(a) to:
- 575 (i) pay a tax, fee, or charge under:
- 576 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 577 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 578 (C) Section 19-6-714;
- 579 (D) Section 19-6-805;
- 580 (E) Section 69-2-5;
- 581 (F) Section 69-2-5.5;
- 582 (G) Section 69-2-5.6; or
- 583 (H) this title; or
- 584 (ii) collect and remit a tax, fee, or charge under:
- 585 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

586 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

587 (C) Section 19-6-714;

588 (D) Section 19-6-805;

589 (E) Section 69-2-5;

590 (F) Section 69-2-5.5;

591 (G) Section 69-2-5.6; or

592 (H) this title.

593 (d) A person shall pay a use tax imposed by this chapter on a transaction described in

594 Subsection 59-12-103(1) if:

595 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

596 (ii) the person:

597 (A) stores the tangible personal property or product transferred electronically in the

598 state;

599 (B) uses the tangible personal property or product transferred electronically in the state;

600 or

601 (C) consumes the tangible personal property or product transferred electronically in the

602 state.

603 (e) The ownership of property that is located at the premises of a printer's facility with

604 which the retailer has contracted for printing and that consists of the final printed product,

605 property that becomes a part of the final printed product, or copy from which the printed

606 product is produced, [~~shall~~] may not result in the retailer being considered to have or maintain

607 an office, distribution house, sales house, warehouse, service enterprise, or other place of

608 business, or to maintain a stock of goods, within this state.

609 (f) (i) As used in this Subsection (1)(f):

610 (A) "Affiliated group" is as defined in Section 59-7-101, except that "affiliated group"

611 includes a corporation that is qualified to do business but is not otherwise doing business in

612 this state.

613 (B) "Common ownership" is as defined in Section 59-7-101.

614 (C) "Related seller" means a seller that:

615 (I) is not required to pay or collect and remit sales and use taxes under Subsection

616 (1)(a) or Section 59-12-103.1;

- 617 (II) is:
- 618 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
- 619 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or
- 620 (Bb) a limited liability company owned by the parent corporation of an affiliated group
- 621 if that parent corporation of the affiliated group is required to pay or collect and remit sales and
- 622 use taxes under Subsection (1)(a); and
- 623 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).
- 624 (ii) A seller is not required to pay or collect and remit sales and use taxes under
- 625 Subsection (1)(a):
- 626 (A) if the seller is a related seller;
- 627 (B) if the seller to which the related seller is related does not engage in any of the
- 628 following activities on behalf of the related seller:
- 629 (I) advertising;
- 630 (II) marketing;
- 631 (III) sales; or
- 632 (IV) other services; and
- 633 (C) if the seller to which the related seller is related accepts the return of an item sold
- 634 by the related seller, the seller to which the related seller is related accepts the return of that
- 635 item:
- 636 (I) sold by a seller that is not a related seller; and
- 637 (II) on the same terms as the return of an item sold by that seller to which the related
- 638 seller is related.
- 639 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
- 640 collected from a purchaser.
- 641 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
- 642 cent, in excess of the tax computed at the rates prescribed by this chapter.
- 643 (c) (i) Each seller shall:
- 644 (A) give the purchaser a receipt for the tax collected; or
- 645 (B) bill the tax as a separate item and declare the name of this state and the seller's
- 646 sales and use tax license number on the invoice for the sale.
- 647 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax

648 and relieves the purchaser of the liability for reporting the tax to the commission as a
649 consumer.

650 (d) A seller is not required to maintain a separate account for the tax collected, but is
651 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

652 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
653 benefit of the state and for payment to the commission in the manner and at the time provided
654 for in this chapter.

655 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
656 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
657 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
658 excess.

659 (g) If the accounting methods regularly employed by the seller in the transaction of the
660 seller's business are such that reports of sales made during a calendar month or quarterly period
661 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
662 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
663 jeopardize collection of the tax.

664 (3) (a) Except as provided in Subsection (3)(g) or Subsections (4) through (6) [and
665 Section 59-12-108], the due date for paying a sales or use tax imposed by this chapter [is due
666 and payable] to the commission [quarterly] is:

667 (i) if a seller is required by this section or Section 59-12-108 to file a return with the
668 commission monthly, on or before the last day of the [month next succeeding each calendar
669 quarterly period:] next month immediately following the last day of the month for which the
670 seller files the return;

671 (ii) if a seller is required by this section or Section 59-12-108 to file a return with the
672 commission annually, on or before the January 31 immediately following the last day of the
673 calendar year for which the seller files the return; or

674 (iii) if a seller is required by Subsection (3)(g) to file a return with the commission for
675 a time period other than a time period described in Subsection (3)(a)(i) or (ii), on or before the
676 last day of the next month immediately following the last day of that time period for which the
677 seller files the return.

678 (b) ~~(i) Each~~ Subject to Section 59-12-108, a seller shall, on or before the [last day of

679 ~~the month next succeeding each calendar quarterly period, file] due date described in~~
680 Subsection (3)(a) for paying a sales or use tax imposed by this chapter, file a return with the
681 commission [a return for the preceding quarterly period].

682 ~~[(ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the~~
683 ~~tax required under this chapter to be collected or paid for the period covered by the return.]~~

684 (c) Except as provided in Subsection (4)(c), a return shall contain information and be in
685 a form the commission prescribes by rule made in accordance with Title 63G, Chapter 3, Utah
686 Administrative Rulemaking Act.

687 ~~[(d) The sales tax as computed in the return shall be based upon the total nonexempt~~
688 ~~sales made during the period, including both cash and charge sales.]~~

689 ~~[(e) The use tax as computed in the return shall be based upon]~~

690 (d) A sales tax imposed under this chapter that is computed on a return described in
691 this Subsection (3) shall be computed on the basis of the total nonexempt sales made during the
692 period covered by the return, including cash and charge sales.

693 (e) A use tax imposed under this chapter that is computed on a return described in this
694 Subsection (3) shall be computed on the basis of the total amount of purchases for storage, use,
695 or other consumption in this state made during the period[, including both by cash and by
696 charge] covered by the return, including cash and charge purchases.

697 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63G, Chapter 3,
698 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
699 ~~[returns and paying the taxes] a return under this chapter or paying a tax under this chapter.~~

700 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

701 (g) The commission may require ~~[returns and payment of the tax to be made for other~~
702 ~~than quarterly periods] a return or the payment of a tax imposed under this chapter to be made~~
703 ~~for a time period other than a time period described in Subsection (3)(a)(i) or (ii) if the~~
704 ~~commission considers it necessary in order to ensure the payment of the tax imposed [by]~~
705 ~~under this chapter.~~

706 (h) (i) The commission may require a seller that files a simplified electronic return with
707 the commission to file an additional electronic report with the commission.

708 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
709 commission may make rules providing:

710 (A) the information required to be included in the additional electronic report described
711 in Subsection (3)(h)(i); and

712 (B) one or more due dates for filing the additional electronic report described in
713 Subsection (3)(h)(i).

714 (4) (a) As used in this Subsection (4) and Subsection (5)(b), "remote seller" means a
715 seller that is:

- 716 (i) registered under the agreement;
- 717 (ii) described in Subsection (1)(b); and
- 718 (iii) not a:

- 719 (A) model 1 seller;
- 720 (B) model 2 seller; or
- 721 (C) model 3 seller.

722 (b) (i) Except as provided in Subsection (4)(b)(ii), a tax a remote seller collects in
723 accordance with Subsection (1)(b) is due and payable:

- 724 (A) to the commission;
- 725 (B) annually; and
- 726 (C) on or before the ~~[last day of the month]~~ January 31 immediately following the last
727 day of ~~[each]~~ the calendar year for which the remote seller files the return.

728 (ii) The commission may require that a tax a remote seller collects in accordance with
729 Subsection (1)(b) be due and payable:

- 730 (A) to the commission; and
- 731 (B) on the last day of the month immediately following any month in which the seller
732 accumulates a total of at least \$1,000 in agreement sales and use tax.

733 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
734 (4)(b), the remote seller shall file a return:

- 735 (A) with the commission;
- 736 (B) with respect to the tax;
- 737 (C) containing information prescribed by the commission; and
- 738 (D) on a form prescribed by the commission.

739 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
740 commission shall make rules prescribing:

741 (A) the information required to be contained in a return described in Subsection
742 (4)(a)(i); and

743 (B) the form described in Subsection (4)(c)(i)(D).

744 (d) A tax a remote seller collects in accordance with this Subsection (4) shall be
745 calculated on the basis of the total amount of taxable transactions under Subsection
746 59-12-103(1) the remote seller completes, including:

747 (i) a cash transaction; and

748 (ii) a charge transaction.

749 (5) (a) Except as provided in Subsection (5)(b), a tax a seller that files a simplified
750 electronic return collects in accordance with this chapter is due and payable:

751 (i) monthly on or before the last day of the month immediately following the month for
752 which the seller collects a tax under this chapter; and

753 (ii) for the month for which the seller collects a tax under this chapter.

754 (b) A tax a remote seller that files a simplified electronic return collects in accordance
755 with this chapter is due and payable as provided in Subsection (4).

756 (6) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
757 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
758 titling or registration under the laws of this state.

759 (b) The commission shall collect the tax described in Subsection (6)(a) when the
760 vehicle is titled or registered.

761 (7) If any sale of tangible personal property or any other taxable transaction under
762 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
763 responsible for the collection or payment of the tax imposed on the sale and the retailer is
764 responsible for the collection or payment of the tax imposed on the sale if:

765 (a) the retailer represents that the personal property is purchased by the retailer for
766 resale; and

767 (b) the personal property is not subsequently resold.

768 (8) If any sale of property or service subject to the tax is made to a person prepaying
769 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
770 contractor or subcontractor of that person, the person to whom such payment or consideration
771 is payable is not responsible for the collection or payment of the sales or use tax and the person

772 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
773 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
774 tax has not been fully credited against sales or use tax due and payable under the rules
775 [~~promulgated by~~] the commission makes in accordance with Title 63G, Chapter 3, Utah
776 Administrative Rulemaking Act.

777 (9) (a) For purposes of this Subsection (9):

778 (i) Except as provided in Subsection (9)(a)(ii), "bad debt" is as defined in Section 166,
779 Internal Revenue Code.

780 (ii) Notwithstanding Subsection (9)(a)(i), "bad debt" does not include:

781 (A) an amount included in the purchase price of tangible personal property, a product
782 transferred electronically, or a service that is:

783 (I) not a transaction described in Subsection 59-12-103(1); or

784 (II) exempt under Section 59-12-104;

785 (B) a financing charge;

786 (C) interest;

787 (D) a tax imposed under this chapter on the purchase price of tangible personal
788 property, a product transferred electronically, or a service;

789 (E) an uncollectible amount on tangible personal property or a product transferred
790 electronically that:

791 (I) is subject to a tax under this chapter; and

792 (II) remains in the possession of a seller until the full purchase price is paid;

793 (F) an expense incurred in attempting to collect any debt; or

794 (G) an amount that a seller does not collect on repossessed property.

795 (b) A seller may deduct bad debt from the total amount from which a tax under this
796 chapter is calculated on a return.

797 (c) A seller may file a refund claim with the commission if:

798 (i) the amount of bad debt for the time period described in Subsection (9)(e) exceeds
799 the amount of the seller's sales that are subject to a tax under this chapter for that same time
800 period; and

801 (ii) as provided in Section 59-1-1410.

802 (d) A bad debt deduction under this section may not include interest.

- 803 (e) A bad debt may be deducted under this Subsection (9) on a return for the time
804 period during which the bad debt:
- 805 (i) is written off as uncollectible in the seller's books and records; and
 - 806 (ii) would be eligible for a bad debt deduction:
 - 807 (A) for federal income tax purposes; and
 - 808 (B) if the seller were required to file a federal income tax return.
 - 809 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
810 claims a refund under this Subsection (9), the seller shall report and remit a tax under this
811 chapter:
 - 812 (i) on the portion of the bad debt the seller recovers; and
 - 813 (ii) on a return filed for the time period for which the portion of the bad debt is
814 recovered.
 - 815 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
816 (9)(f), a seller shall apply amounts received on the bad debt in the following order:
 - 817 (i) in a proportional amount:
 - 818 (A) to the purchase price of the tangible personal property, product transferred
819 electronically, or service; and
 - 820 (B) to the tax due under this chapter on the tangible personal property, product
821 transferred electronically, or service; and
 - 822 (ii) to:
 - 823 (A) interest charges;
 - 824 (B) service charges; and
 - 825 (C) other charges.
 - 826 (h) A seller's certified service provider may make a deduction or claim a refund for bad
827 debt on behalf of the seller:
 - 828 (i) in accordance with this Subsection (9); and
 - 829 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
830 deduction or refund to the seller.
 - 831 (i) A seller may allocate bad debt among the states that are members of the agreement
832 if the seller's books and records support that allocation.
 - 833 (10) (a) A seller may not, with intent to evade any tax, fail to timely remit the full

834 amount of tax required by this chapter.

835 (b) A violation of this section is [~~punishable~~] subject to a penalty as provided in
836 Section 59-1-401.

837 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
838 paid to the state, except amounts determined to be due by the commission under Chapter 1,
839 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
840 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in
841 addition to the tax, penalties and interest as provided in Section 59-1-401.

842 (d) For purposes of prosecution under this section, each [~~quarterly~~] tax period in which
843 a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of
844 the tax required to be remitted, constitutes a separate offense.

845 Section 5. Section **59-12-107.1** is amended to read:

846 **59-12-107.1. Direct payment permit.**

847 (1) The commission may issue a direct payment permit to a seller that:

848 (a) obtains a license under Section 59-12-106;

849 (b) makes aggregate purchases of at least \$1,500,000 for each of the three years prior to
850 the year in which the commission issues the direct payment permit to the seller;

851 (c) has a record of timely payment of taxes under this chapter as determined by the
852 commission; and

853 (d) demonstrates to the commission that the seller has the ability to determine the
854 appropriate location of a transaction:

855 (i) under:

856 (A) Section 59-12-211;

857 (B) Section 59-12-212; or

858 (C) Section 59-12-213; and

859 (ii) for each transaction for which the seller makes a purchase using the direct payment
860 permit.

861 (2) The commission shall within 120 days after the date a seller applies for a direct
862 payment permit notify the seller of the commission's decision to issue or deny the issuance of
863 the direct payment permit.

864 (3) A direct payment permit may not be used in connection with the following

- 865 transactions:
- 866 (a) a purchase of the following purchased in the same transaction:
- 867 (i) prepared food; and
- 868 (ii) food and food ingredients;
- 869 (b) amounts paid or charged for accommodations and services described in Subsection
- 870 59-12-103(1)(i);
- 871 (c) amounts paid or charged for admission or user fees under Subsection
- 872 59-12-103(1)(f);
- 873 (d) a purchase of:
- 874 (i) a motor vehicle;
- 875 (ii) an aircraft;
- 876 (iii) a watercraft;
- 877 (iv) a modular home;
- 878 (v) a manufactured home; or
- 879 (vi) a mobile home;
- 880 (e) amounts paid under Subsection 59-12-103(1)(b); or
- 881 (f) sales under Subsection 59-12-103(1)(c).
- 882 (4) The holder of a direct payment permit shall:
- 883 (a) present evidence of the direct payment permit to a seller at the time the holder of
- 884 the direct payment permit makes a purchase using the direct payment permit;
- 885 (b) determine the appropriate location of a transaction under:
- 886 (i) (A) Section 59-12-211;
- 887 (B) Section 59-12-212; or
- 888 (C) Section 59-12-213; and
- 889 (ii) for each transaction for which the holder of the direct payment permit makes a
- 890 purchase using the direct payment permit;
- 891 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax
- 892 due on each transaction for which the holder of the direct payment permit uses the direct
- 893 payment permit;
- 894 (d) report and remit to the commission the sales and use tax described in Subsection
- 895 (4)(c) at the same time and in the same manner as the holder of the direct payment permit

896 reports and remits a tax under this chapter; and

897 (e) maintain records:

898 (i) that indicate the appropriate location of a transaction under:

899 (A) (I) Section 59-12-211;

900 (II) Section 59-12-212; or

901 (III) Section 59-12-213; and

902 (B) for each transaction for which a purchase is made using the direct payment permit;

903 and

904 (ii) necessary to determine the amount described in Subsection (4)(c) for each
905 transaction for which the holder of the direct payment permit uses the direct payment permit.

906 (5) A seller that is presented evidence of a direct payment permit at the time of a
907 transaction:

908 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
909 transaction;

910 (b) shall, for a period of three years from the date the seller files a return with the
911 commission reporting the transaction, retain records to verify that the transaction was made
912 using a direct payment permit; and

913 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the
914 transaction.

915 [~~(6) The holder of a direct payment permit may calculate the amount the holder of the~~
916 ~~direct payment permit may retain under Section 59-12-108 on the amount described in~~
917 ~~Subsection (4)(c):]~~

918 [~~(a) for each transaction for which the holder of the direct payment permit uses the~~
919 ~~direct payment permit; and]~~

920 [~~(b) that the holder of the direct payment permit remits to the commission under this~~
921 ~~section.]~~

922 [~~(7)~~ (6) The commission may revoke a direct payment permit issued under this section
923 at any time if the holder of the direct payment permit fails to comply with any provision of this
924 chapter.

925 [~~(8)~~ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
926 Act, the commission may make rules to administer this section.

927 Section 6. Section **59-12-108** is amended to read:

928 **59-12-108. Definition -- Monthly payment -- Payment by electronic funds transfer**
 929 **-- Annual payment -- Commission rulemaking authority.**

930 [~~(1) (a) Notwithstanding Section 59-12-107,~~]

931 (1) As used in this section, "tax, fee, or charge liability" means the amount of a tax, fee,
 932 or charge a seller is required to remit to the commission under:

933 (a) this chapter;

934 (b) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

935 (c) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

936 (d) Section 19-6-716;

937 (e) Section 19-6-805;

938 (f) Section 69-2-5;

939 (g) Section 69-2-5.5; or

940 (h) Section 69-2-5.6.

941 (2) (a) Subject to Section 59-12-107, a seller that has a tax, fee, or charge liability
 942 [under this chapter of \$50,000] of \$1,000 or more for the previous calendar year shall [:(i)] file
 943 a return with the commission [:] monthly as provided in this section.

944 [~~(A) monthly on or before the last day of the month immediately following the month~~
 945 ~~for which the seller collects a tax under this chapter; and]~~

946 [~~(B) for the month for which the seller collects a tax under this chapter; and]~~

947 [~~(ii) except as provided in Subsection (1)(b), remit with the return required by~~
 948 ~~Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,~~
 949 ~~fee, or charge described in Subsection (1)(c):]~~

950 [~~(A) if that seller's tax liability under this chapter for the previous calendar year is less~~
 951 ~~than \$96,000, by any method permitted by the commission; or]~~

952 [~~(B) if that seller's tax liability under this chapter for the previous calendar year is~~
 953 ~~\$96,000 or more, by electronic funds transfer.]~~

954 (b) Subject to Section 59-12-107, the following are required to file a return with the
 955 commission annually as provided in this section:

956 (i) a seller except for a seller that is:

957 (A) required under Subsection (2)(a) to file a return with the commission monthly; or

958 (B) required under Subsection 59-12-107(3)(a)(iii) to file a return with the commission
 959 for a time period other than a time period described in Subsection 59-12-107(3)(a)(i) or (ii); or

960 (ii) a seller that:

961 (A) for the previous calendar year conducted business in this state for a period of less
 962 than 12 months; and

963 (B) expects to have a tax, fee, or charge liability under this chapter for the current
 964 calendar year of less than \$1,000.

965 ~~[(b) A seller shall]~~

966 (3) (a) A seller required under Subsection (2)(a) to file a return with the commission
 967 monthly shall:

968 (i) file the return electronically; and

969 (ii) remit electronically with the return [required by] described in Subsection [(1)(a)(i)]

970 (3)(a)(i) the amount of the tax, fee, or charge liability the seller is required to remit to the
 971 commission [for each tax, fee, or charge described in Subsection (1)(c) if that seller:].

972 ~~[(i) is required by Section 59-12-107 to file the return electronically; or]~~

973 ~~[(ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and]~~

974 ~~[(B) files a simplified electronic return.]~~

975 ~~[(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:]~~

976 ~~[(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;]~~

977 ~~[(ii) a fee under Section 19-6-716;]~~

978 ~~[(iii) a fee under Section 19-6-805;]~~

979 ~~[(iv) a charge under Section 69-2-5;]~~

980 ~~[(v) a charge under Section 69-2-5.5;]~~

981 ~~[(vi) a charge under Section 69-2-5.6; or]~~

982 ~~[(vii) a tax under this chapter.]~~

983 (b) A seller required under Subsection (2)(b) to file a return with the commission
 984 annually or a seller required under Subsection 59-12-107(3)(a)(iii) to file a return with the

985 commission for a time period other than a time period described in Subsection

986 59-12-107(3)(a)(i) or (ii) shall:

987 (i) file the return by any filing method as determined by the commission; and

988 (ii) remit with the return described in Subsection (3)(b)(i) the amount of the tax, fee, or

989 charge liability the seller is required to remit to the commission.

990 ~~[(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter~~
991 ~~3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a~~
992 ~~method for making same-day payments other than by electronic funds transfer if making~~
993 ~~payments by electronic funds transfer fails.]~~

994 ~~[(e)]~~ (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
995 Act, the commission shall establish by rule procedures and requirements for determining the
996 amount a seller is required to remit to the commission under this ~~[Subsection (1)]~~ section.

997 ~~[(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a~~
998 ~~seller described in Subsection (4) may retain each month the amount allowed by this~~
999 ~~Subsection (2).]~~

1000 ~~[(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain~~
1001 ~~each month 1.31% of any amounts the seller is required to remit to the commission:]~~

1002 ~~[(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax~~
1003 ~~and a local tax imposed in accordance with the following, for the month for which the seller is~~
1004 ~~filing a return in accordance with Subsection (1):]~~

1005 ~~[(A) Subsection 59-12-103(2)(a);]~~

1006 ~~[(B) Subsection 59-12-103(2)(b); and]~~

1007 ~~[(C) Subsection 59-12-103(2)(d); and]~~

1008 ~~[(ii) for an agreement sales and use tax.]~~

1009 ~~[(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may~~
1010 ~~retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described~~
1011 ~~in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in~~
1012 ~~accordance with Subsection 59-12-103(2)(c).]~~

1013 ~~[(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount~~
1014 ~~equal to the sum of:]~~

1015 ~~[(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~

1016 ~~[(F) the state tax and the local tax imposed in accordance with Subsection~~
1017 ~~59-12-103(2)(c);]~~

1018 ~~[(H) the month for which the seller is filing a return in accordance with Subsection (1);~~
1019 ~~and]~~

1020 [~~(H)~~ an agreement sales and use tax; and]
1021 [~~(B)~~ 1.31% of the difference between:]
1022 [~~(f)~~ the amounts the seller would have been required to remit to the commission:]
1023 [~~(Aa)~~ in accordance with Subsection 59-12-103(2)(a) if the transaction had been
1024 subject to the state tax and the local tax imposed in accordance with Subsection
1025 59-12-103(2)(a);]
1026 [~~(Bb)~~ for the month for which the seller is filing a return in accordance with Subsection
1027 (1); and]
1028 [~~(Cc)~~ for an agreement sales and use tax; and]
1029 [~~(H)~~ the amounts the seller is required to remit to the commission for:]
1030 [~~(Aa)~~ the state tax and the local tax imposed in accordance with Subsection
1031 59-12-103(2)(c);]
1032 [~~(Bb)~~ the month for which the seller is filing a return in accordance with Subsection (1);
1033 and]
1034 [~~(Cc)~~ an agreement sales and use tax.]
1035 [~~(d)~~ A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1036 each month 1% of any amounts the seller is required to remit to the commission:]
1037 [~~(i)~~ for the month for which the seller is filing a return in accordance with Subsection
1038 (1); and]
1039 [~~(ii)~~ under:]
1040 [~~(A)~~ Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;]
1041 [~~(B)~~ Subsection 59-12-603(1)(a)(i)(A); or]
1042 [~~(C)~~ Subsection 59-12-603(1)(a)(i)(B).]
1043 [~~(3)~~ A state government entity that is required to remit taxes monthly in accordance
1044 with Subsection (1) may not retain any amount under Subsection (2).]
1045 [~~(4)~~ A seller that has a tax liability under this chapter for the previous calendar year of
1046 less than \$50,000 may:]
1047 [~~(a)~~ voluntarily meet the requirements of Subsection (1); and]
1048 [~~(b)~~ if the seller voluntarily meets the requirements of Subsection (1), retain the
1049 amounts allowed by Subsection (2).]
1050 [~~(5)~~ Penalties for late payment shall be as provided in Section 59-1-401.]

1051 ~~[(6) (a) Except as provided in Subsection (6)(c), for any amounts required to be~~
1052 ~~remitted to the commission under this part, the commission shall each month calculate an~~
1053 ~~amount equal to the difference between:]~~

1054 ~~[(i) the total amount retained for that month by all sellers had the percentages listed~~
1055 ~~under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and]~~

1056 ~~[(ii) the total amount retained for that month by all sellers at the percentages listed~~
1057 ~~under Subsections (2)(b) and (2)(c)(ii).]~~

1058 ~~[(b) The commission shall each month allocate the amount calculated under Subsection~~
1059 ~~(6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use~~
1060 ~~tax that the commission distributes to each county, city, and town for that month compared to~~
1061 ~~the total agreement sales and use tax that the commission distributes for that month to all~~
1062 ~~counties, cities, and towns.]~~

1063 ~~[(c) The amount the commission calculates under Subsection (6)(a) may not include an~~
1064 ~~amount collected from a tax that:]~~

1065 ~~[(i) the state imposes within a county, city, or town, including the unincorporated area~~
1066 ~~of a county; and]~~

1067 ~~[(ii) is not imposed within the entire state.]~~

1068 Section 7. Section **59-12-123** is amended to read:

1069 **59-12-123. Collection, remittance, and payment of a tax on direct mail.**

1070 (1) Notwithstanding Section 59-12-107 and except as provided in Subsection (6), a
1071 purchaser of direct mail that is not a holder of a direct payment permit under Section
1072 59-12-107.1 shall provide to a seller at the time of a transaction:

1073 (a) a form:

1074 (i) prescribed by the commission; and

1075 (ii) indicating that the transaction is a direct mail transaction; or

1076 (b) information that indicates the locations of the recipients to which the direct mail is
1077 delivered.

1078 (2) If a seller receives a form described in Subsection (1)(a), the seller:

1079 (a) is not liable to collect or remit an agreement sales and use tax for that transaction;

1080 and

1081 (b) shall keep a record of the form described in Subsection (1)(a) for three years from

1082 the date the seller files a return with the commission reporting that transaction.

1083 (3) The purchaser described in Subsection (1) shall:

1084 (a) determine the amount of an agreement sales and use tax due on the transaction in
1085 accordance with Sections 59-12-211 and 59-12-212; and

1086 (b) report and remit to the commission the agreement sales and use tax due on the
1087 transaction.

1088 (4) The form described in Subsection (1)(a) is in effect for all transactions between the
1089 seller described in Subsection (2)(a) and the purchaser described in Subsection (1):

1090 (a) beginning when the seller receives the form in accordance with Subsection (2); and

1091 (b) ending when the purchaser revokes the form in writing.

1092 (5) (a) If a seller receives the information described in Subsection (1)(b) from a

1093 purchaser that indicates the locations of the recipients to which direct mail is delivered, the
1094 seller shall collect and remit agreement sales and use tax in accordance with the information
1095 the purchaser provides.

1096 (b) If a seller collects and remits an agreement sales and use tax to the commission in
1097 accordance with Subsection (5)(a), the seller is not liable for any further obligation to collect or
1098 remit an agreement sales and use tax to the commission on the transaction unless the seller acts
1099 in bad faith.

1100 (6) If a purchaser of direct mail provides a seller with a direct payment permit in
1101 accordance with Section 59-12-107.1, the purchaser may not be required to provide to the
1102 seller:

1103 (a) the form required by Subsection (1)(a); or

1104 (b) the information required by Subsection (1)(b).

1105 (7) A seller shall collect and remit an agreement sales and use tax in accordance with
1106 ~~[Section]~~ Sections 59-12-107 and 59-12-108 if a purchaser of direct mail does not provide the
1107 seller with:

1108 (a) a direct payment permit in accordance with Section 59-12-107.1; or

1109 (b) the:

1110 (i) form required by Subsection (1)(a); or

1111 (ii) information required by Subsection (1)(b).

1112 Section 8. Section **59-12-1802** is amended to read:

1113 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**
1114 **General Fund.**

1115 (1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax,
1116 a tax shall be imposed within the county under this section by the state:

1117 (a) on the transactions described in Subsection 59-12-103(1);

1118 (b) at a rate of .25%; and

1119 (c) beginning on January 1, 2008, and ending on the day on which the county imposes
1120 a tax under Part 11, County Option Sales and Use Tax.

1121 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
1122 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from
1123 taxation under Section 59-12-104.

1124 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
1125 accordance with Sections 59-12-211 through 59-12-215.

1126 (4) Revenues collected from the sales and use tax imposed by this section[~~, after~~
1127 ~~subtracting amounts a seller retains in accordance with Section 59-12-108,]~~ shall be deposited
1128 into the General Fund.

1129 Section 9. Section **59-12-2003** is amended to read:

1130 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
1131 **transit districts.**

1132 (1) Subject to the other provisions of this section and except as provided in Subsection
1133 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
1134 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
1135 area of a county of the first or second class if, on January 1, 2008, there is a public transit
1136 district within any portion of that county of the first or second class.

1137 (2) The state may not impose a tax under this part within a county of the first or second
1138 class if within all of the cities, towns, and the unincorporated area of the county of the first or
1139 second class there is imposed a sales and use tax of:

1140 (a) .30% under Section 59-12-501;

1141 (b) .30% under Section 59-12-1001; or

1142 (c) .30% under Section 59-12-1503.

1143 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax

1144 rate imposed within a city, town, or the unincorporated area of a county of the first or second
1145 class is a percentage equal to the difference between:

1146 (i) .30%; and

1147 (ii) (A) for a city within the county of the first or second class, the highest tax rate

1148 imposed within that city under:

1149 (I) Section 59-12-501;

1150 (II) Section 59-12-1001; or

1151 (III) Section 59-12-1503;

1152 (B) for a town within the county of the first or second class, the highest tax rate

1153 imposed within that town under:

1154 (I) Section 59-12-501;

1155 (II) Section 59-12-1001; or

1156 (III) Section 59-12-1503; or

1157 (C) for the unincorporated area of the county of the first or second class, the highest tax

1158 rate imposed within that unincorporated area under:

1159 (I) Section 59-12-501;

1160 (II) Section 59-12-1001; or

1161 (III) Section 59-12-1503.

1162 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of

1163 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,

1164 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the

1165 first or second class is .30%, the state may not impose a tax under this part within that city,

1166 town, or unincorporated area.

1167 (4) (a) The state may not impose a tax under this part on:

1168 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

1169 are exempt from taxation under Section 59-12-104; or

1170 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food

1171 ingredients.

1172 (b) The state shall impose a tax under this part on amounts paid or charged for food

1173 and food ingredients if the food and food ingredients are sold as part of a bundled transaction

1174 attributable to food and ingredients and tangible personal property other than food and food

1175 ingredients.

1176 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
1177 accordance with Sections 59-12-211 through 59-12-215.

1178 (6) The commission shall distribute the revenues the state collects from the sales and
1179 use tax under this part ~~[, after subtracting amounts a seller retains in accordance with Section
1180 59-12-108,]~~ to the public transit districts within the cities, towns, and unincorporated areas:

1181 (a) within which the state imposes a tax under this part; and

1182 (b) in proportion to the revenues collected from the sales and use tax under this part
1183 within each city, town, and unincorporated area within which the state imposes a tax under this
1184 part.

1185 Section 10. Section **59-27-104** is amended to read:

1186 **59-27-104. Payment of tax.**

1187 (1) Subject to Subsection (2), a sexually explicit business or escort service subject to
1188 the tax imposed by this chapter shall file a return with the commission and pay the tax
1189 calculated on the return to the commission~~[-]~~ in accordance with the procedures and
1190 requirements of Sections 59-12-107 and 59-12-108 for filing a return and remitting a tax.

1191 ~~[(a) quarterly on or before the last day of the month immediately following the last day
1192 of the previous calendar quarter if:]~~

1193 ~~[(i) the sexually explicit business or escort service is required to file a quarterly sales
1194 and use tax return with the commission under Section 59-12-107; or]~~

1195 ~~[(ii) the sexually explicit business or escort service is not required to file a sales and
1196 use tax return with the commission under Chapter 12, Sales and Use Tax Act, or]~~

1197 ~~[(b) monthly on or before the last day of the month immediately following the last day
1198 of the previous calendar month if the sexually explicit business is required to file a monthly
1199 sales and use tax return with the commission under Section 59-12-108.]~~

1200 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1201 commission may make rules to:

1202 (a) establish standards for determining whether an operation is a sexually explicit
1203 business or escort service; and

1204 (b) determine, for purposes of Section 59-27-102, amounts that are similar to an
1205 amount paid for:

- 1206 (i) a salary;
- 1207 (ii) a fee;
- 1208 (iii) a commission;
- 1209 (iv) hire; or
- 1210 (v) profit.

1211 Section 11. Section **63M-5-303** is amended to read:

1212 **63M-5-303. Public facility -- Prepayment of sales and use tax in installments.**

1213 Notwithstanding anything to the contrary contained in this chapter, prepaid sales or use
 1214 taxes sufficient to construct a particular public facility need not be prepaid in one sum but may
 1215 be prepaid in installments as may be required by the state or any of its agencies or political
 1216 subdivisions in fulfilling contractual commitments for the construction of the public facility if
 1217 the state receives assurance that the funds for the agreed project will be prepaid to the State Tax
 1218 Commission at the time or times for which the state or any of its agencies or political
 1219 subdivisions have made contractual commitments for the disbursement of these funds for the
 1220 public facility. In no event shall the total accumulated prepayment be less than the amount of
 1221 sales and use taxes due for the [~~calendar quarters~~] time periods for which returns are required
 1222 to be filed under [~~Section~~] Sections 59-12-107 and 59-12-108.

1223 Section 12. **Effective date.**

1224 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2010.

1225 (2) The amendments to the following sections take effect on January 1, 2011:

1226 (a) Section 59-12-103.1;

1227 (b) Section 59-12-107;

1228 (c) Section 59-12-108;

1229 (d) Section 59-12-123;

1230 (e) Section 59-27-104; and

1231 (f) Section 63M-5-303.

Legislative Review Note
as of **2-4-10 12:39 PM**

Office of Legislative Research and General Counsel

Fiscal Note**S.B. 151 - Collection, Remittance, and Retention of Certain Taxes, Fees, or Charges**

2010 General Session

State of Utah

State Impact

By reducing the amount businesses may keep for sales tax collection and requiring more frequent remittance, this bill increases ongoing revenue to the General Fund by \$11,066,600 in FY 2011 and \$22,885,700 in FY 2012. Also, due to the earlier filing, there is a one-time shift of \$18,715,900 in FY 2011.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$11,066,600	\$22,885,700
General Fund, One-Time	\$0	\$0	\$0	\$0	\$18,715,900	\$0
Total	\$0	\$0	\$0	\$0	\$29,782,500	\$22,885,700

Individual, Business and/or Local Impact

Businesses will no longer be allowed to keep up to 1.31% of the sales tax collected. Because of this, businesses experience a decrease in revenue of \$22,885,700 in FY 2012. Certain businesses may experience increased compliance costs by being required to file monthly returns instead of quarterly returns. Local governments could experience an increase in revenue of \$12,800,100 in FY 2011 and \$9,835,900 in FY 2012. Individuals are unaffected.